IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 15TH FEBRUARY 2007 / 26TH MAGHA 1928

CRP.No. 250 OF 2003()

AGAINST THE ORDER IN EP.36/1998 IN
OS.290/1997 OF MUNSIFF COURT, PUNALUR

.....

REVN. PETITIONER: PLAINTIFF/ DECREE HOLDER

GOPINATHAN NAIR @ VENUGOPALAN NAIR,
S/O.RAMAN PILLAI, MURALEE SADANAM, ELAMPAL MURI,
VILAKUDY VILLAGE, PATHANAPURAM TALUK.

BY ADV. SRI.SHAIJAN C.GEORGE
SMT.S.A.SHERLY

RESPONDENTS: /DEFENDANT/ JUDGEMENT DEBTORS

---

1. PADMAJAKUMARI, D/O.BHAVANI AMMA,
PRIYA NIVAS, ELAMPAL MURI, VILAKKUDY VILLAGE,
PATHANAPURAM TALUK.

2. GOPINATHAN PILLAI, PRIYA NIVAS,
ELAMPAL MURI, VILAKKUDY VILLAGE,
PATHANAPURAM TALUK.

BY ADV. SRI.M.V.THAMBAN

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 15.2.2007, THE COURT ON THE SAME DAY, PASSED THE FOLLOWING:

C.R.P. NO. 250/2003

ORDER ON CMP NO. 641/2003 IN C.R.P. 250/2003

// DISMISSED //

15TH FEBRUARY, 2007. **SD/-**
P.R. RAMAN, JUDGE.

P.R. RAMAN, J.

==========

C.R.P. NO. 250 OF 2003

==========

DATED THIS, THE 15TH DAY OF FEBRUARY, 2007

OR D E R

Plaintiff/decree holder is the petitioner herein. E.P.36/1998 was filed complaining that the judgment debtors have violated the compromise decree and they should be detained in prison and damages should be realized from them. This was denied by the judgment debtors. A commissioner was appointed in the case and a mahazar was also prepared. Both sides gave evidence which would show that both sides were not satisfied with the commission report. Ext.C1 also shows nothing to support the case of the plaintiff as alleged. On a meticulous consideration of the materials available on record, the court below found that the judgment debtors have not violated the decree as alleged by the decree holder and the E.P. was accordingly dismissed. But curiously enough, an observation is made by the court below that violation was committed by the decree holder himself and permitted the judgment debtors to take steps to restore the boundaries in its original position on the basis of Ext.A1 decree and Ext.C2

plan. This is seriously challenged in this revision.

2. Heard both sides. When the allegation in the E.P. is that the decree was violated by the judgment debtors and sought action against them, if the court ultimately finds that there is no such violation, the execution petition could be dismissed and the same has been done. But there is no warrant for the court below to observe that there is violation by the decree holder and further, permit the judgment debtors to take steps. If as a matter of fact, there is any violation on the part of the decree holder, it is open to the judgment debtors to file a petition before the court. In the absence of any such petition, there is no scope for passing any such direction in favour of the judgment debtors. Accordingly, those observations and directions in favour of the judgment debtors are set aside.

The revision petition is allowed to the above extent . In all other respects, the order of the court below will stand confirmed.

P.R. RAMAN,
JUDGE.

knc/-

P.R. RAMAN, J.
==========

C.R.P. NO. 250/2003

O R D E R

15TH FEBRUARY, 2007.